



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/273,726      | 03/22/1999  | ATSUSHI KANAYAMA     | 0879-0228P          | 7491             |

2292 7590 12/15/2003

BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

TILLERY, RASHAWN N

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2612

DATE MAILED: 12/15/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/273,726

Applicant(s)

KANAYAMA, ATSUSHI

Examiner

Rashawn N Tillery

Art Unit

2612

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

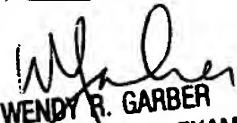
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 4-12.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
**WENDY R. GARBER**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: Regarding Applicant's arguments concerning the Kasuya patent failing to teach an absolute position determiner and a relative position determiner capable of controlling a lens in the same manner as the claimed invention, the examiner respectfully disagrees. Clearly one of ordinary skill in the art would concur, after having at least skimmed through the Kasuya patent, that the prior art reference reads on Applicant's claim language. Kasuya clearly states, in col. 3, lines 20-28, that both the absolute position detecting means and the relative position detecting means are used to control a lens. The examiner acknowledges that Kasuya discloses components- namely wide-angle- and telephoto end point detecting means- which are not claimed in Applicant's claimed invention; however, the examiner is unable to ascertain an unexpected result from the additional components. That is, Kasuya's position detecting device yields the same result. Thus, the examiner contends that Applicant's claim language is currently written broadly enough where a broad interpretation of the prior art reference could read on it. Regarding Applicant's arguments concerning Kasuya failing to disclose Applicant's claimed storage device, the examiner respectfully disagrees. The examiner is fully aware that Kasuya may teach steps that are not claimed in Applicant's claimed invention, however, Kasuya's storage device could be interpreted to read on Applicant's claim language. Kasuya's storage device clearly stores initialization data. The examiner contends that the data is related to the outputs of both the absolute position detecting means and the relative position detecting means; this is evident in the various preset target positions shown in figure 1B. See col. 3, line 49 to col. 4, line 23.